



REPLY TO
ATTENTION OF

**DEPARTMENT OF THE ARMY
US ARMY COMMUNITY AND FAMILY SUPPORT CENTER
4700 KING STREET
ALEXANDRIA VA 22302-44**

CFSC-ZA

25 MAR 2005

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Compliance with Public Law 97-248, Tip Allocation and Tip Reporting Requirements

1. The Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97-248, requires "large" food and beverage establishments (including those in the military) to record and report to the IRS detailed information related to sales and tips. This law applies in the 50 states plus the District of Columbia.
2. Detailed compliance procedures were published in a Manager's Guide to Tip Allocation in 1983 and incorporated into AR 215-1 in 1985. In June, 2000, the IRS determined that numerous Army garrisons were not in compliance with the filing requirements. A major effort was made to bring garrisons into compliance including updating and placing the Manager's Guide on-line and developing spreadsheets that greatly simplify the entire process.
3. Recent informal contacts with MWR Regions and garrisons, brought on by a direct IRS contact with a garrison, showed that full compliance with the law is abysmal. A review of several garrison submissions showed major errors in almost all cases as well as the IRS forms not being signed by a responsible NAFI official. Other garrisons contacted during the review did not file in 2003. The IRS is authorized to assess penalties for filing forms late, incorrect filings, or omitting information on the returns.
4. The few amended 2003 IRS Form 8027's that have been filed show a number of employees receiving allocations in excess of \$4,000. This puts our employees in the position of having to explain to the IRS that they did not receive these funds or pay the federal and state tax due plus fines, interest, and penalties that can approach 100 percent of the amount due for 2003. Army MWR should not put its employees in this position simply because MWR activities fail to comply with the law.
5. To ensure compliance with this reporting requirement, and consistent with the recent reorganization of Army MWR, beginning with the reporting requirements due to the IRS on 1 March 2006, each garrison activity IRS Form 8027 will be signed by the below designated fund manager, general manager, or region official for submission to the IRS. Additionally, these officials must ensure each activity required to file in tax years 2003 and 2004 did so accurately.

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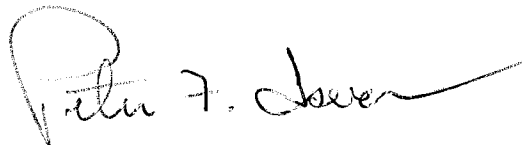
Amended returns are required for those found to be in error. Change to employee allocations of five percent or more resulting from filing for the first time or errors, also require an amended W-2 form to be provided to the employee and the IRS for each affected employee.

6. Designated responsible officials are:

- a. For NERO, SERO, SWRO, PARO, and NWRO: The Region Fund Manager or Region Director.
- b. For Defense Logistics Agency garrisons: DLA MWR Chief
- c. For the Army Civilian Welfare Fund/Post Restaurant Activities: IMA HQ CWF/PRF Fund/Program Manager.
- d. For the AFRC properties: General Managers of The Hale Koa and the Shades of Green.

7. One commercial restaurant chain is being sued by the IRS for \$31.4M in back taxes, interest, and penalties related to tip allocation and failure to ensure all cash tips were reported. As the AMWRF is the ultimate successor in interest to these MWR funds, fiscal responsibility requires that responsible officials ensure the accurate and timely filing of required IRS forms.

8. Complete instructions on how to comply with these reporting requirements are at www.armymwr.org web site, under the Business Programs Directorate.



PETER F. ISAACS
Chief Operating Officer

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